

**ENTERED**

August 09, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

PLASTIPAK PACKAGING, INC., §  
§  
*Plaintiff/Counter-Defendant,* §  
§  
v. § CIVIL ACTION NO. 4:20-CV-00356  
§  
CG ROXANE, LLC, §  
§  
*Defendant/Counterclaimant.* §

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION**

Pending before the Court in the above-captioned proceeding is Defendant CG Roxane, LLC's ("Defendant") Motion for Judgment on the Pleadings (Doc. No. 60). Plaintiff Plastipak Packaging, Inc. ("Plaintiff") filed a response in opposition to the motion (Doc. No. 61), Defendant replied thereto (Doc. No. 63), and then Plaintiff filed a surreply (Doc. No. 64).

Also pending before the Court is Plaintiff's Motion to Stay Pending Related Appeal (Doc. No. 57). Defendant filed a response in opposition to the motion (Doc. No. 58), and Plaintiff replied thereto (Doc. No. 59).

Magistrate Judge Sam S. Sheldon, to whom this case was referred (Doc. No. 67), issued a Memorandum and Recommendation ("M&R") that the Court deny without prejudice Defendant's Motion for Judgment on the Pleadings as moot, and that the Court grant Plaintiff's Motion to Stay. (Doc. No. 68). Neither Plaintiff nor Defendant filed objections to the M&R. *See* 28 U.S.C. § 636(b)(1) (setting a 14-day deadline to file objections); FED. R. CIV. P. 72(b)(2) (same); *see also* (Doc. No. 68, at 7) (advising parties of the 14-day deadline).

After independently reviewing the record and considering the applicable law, the Court agrees with the conclusions of the M&R in their entirety. (Doc. No. 68). Accordingly, the Court hereby **ORDERS** that the Memorandum and Recommendation (Doc. No. 68) is **ADOPTED**.

The Court further **ORDERS** that Defendants' Motion for Judgment on the Pleadings (Doc. No. 60) is **DENIED without prejudice as moot**.

The Court further **ORDERS** that Plaintiff's Motion to Stay Pending Related Appeal (Doc. No. 57) is **GRANTED**. Accordingly, this case is hereby stayed pending the forthcoming decision by the U.S. Court of Appeals for the Federal Circuit in *Plastipak Packaging, Inc. v. Premium Waters, Inc.*, No. 21-2244 (Fed. Cir. filed Aug. 25, 2021).

Signed at Houston, Texas, this 9<sup>th</sup> day of August, 2022.

  
Andrew S. Hanen  
United States District Judge